



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street, MS:4920:DAL
Dallas, TX 75242

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

April 16, 2008

Number: **200829042**
Release Date: 7/18/2008

UIL: 501.03-01

LEGEND

ORG = Organization name XX = Date Address = address

**ORG
ADDRESS**

Taxpayer Identification Number:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Internal Revenue Code:

IRC § 501(c) (3)

**LAST DATE FOR FILING A PETITION
WITH THE TAX COURT: July 15, 20XX**

Dear :

This is a Final Adverse Determination as to your exempt status under section 501(c) (3) of the Internal Revenue Code.

Our adverse determination was made for the following reasons: Failure to provide records of the organization and failure to meet the reporting requirements under section 6001 and 6033 of the Internal Revenue Code.

Taxpayers have the burden of establishing their entitlement to exemption from income tax. Section 6033 requires organizations exempt from tax to keep such records and render such statements as are required by such rules and regulations as the Secretary may prescribe. Treasury Regulations section 1.6033-2 (h)(2) requires organizations exempt from tax to submit such additional information as may be required by the Internal Revenue Service for the purpose of inquiring into the organization's exempt status.

Despite numerous requests to you to provide information to conduct an examination of your Form 990 for the year ended December 31, 20XX, no requested information has been provided to us.

Based on the above, we are revoking your organization's exemption from Federal income tax under section 501(c) (3) of the Internal Revenue Code, effective January 1, 20XX.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 20XX, and all years thereafter.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court, or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or if you prefer, you may contact the local Taxpayer Advocate at:

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Marsha A. Ramirez
Director, EO Examinations

attach 886-A, pub 3498 & 892



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE:EO Examinations
1100 Commerce Street
Dallas, TX 75242

January 28, 2008

ORG
ADDRESS

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

Letter 3618 (04-2002)
Catalog Number 34809F

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12

LEGEND

ORG = Organization name XX = Date President = President

Issues

Whether ORG qualifies for exemption under Section 501(c)(3) of the Internal Revenue Code.

Facts

ORG (the Organization) was formed and incorporated in the state of _____ on March 7, 20XX. The articles of incorporation included a dissolution clause stating that upon dissolution of the corporation, the assets shall be disposed of to charitable and tax exempt organizations described under Section 501(c)(3) of the Internal Revenue Code.

The Organization was granted exemption from Federal Income Taxes under IRC Section 501(a), as described in Section 501(c)(3) and further described in Section 170(b)(1)(a)(vi), in May of 20XX.

Contact was attempted with the Organization on several occasions. Upon making contact with President, the President of the Organization, President was notified of the discrepancy of information between the IRS and the Social Security Administration (SSA) in regards to employment taxes. President was also notified that the Service had no record of a Form 990 return being filed by the organization during the 20XX calendar year of operation or thereafter.

President notified the Agent that the Organization was no longer operating, but had not filed to terminate and dissolve the corporation. The Organization last operated in 20XX, but was unable to continue. President (the last president of the Organization, and an officer while the Organization was operating) indicated that the Organization ceased operations in early 20XX and has had no activities since.

President provided the Agent an address to send any information in regards to the filing issues; and indicated that the Organization would file to terminate and dissolve. The necessary information would then be submitted to the Service.

An Information Document Request (IDR) was sent September 27, 20XX to President via certified mail soliciting the pertinent information. A letter accompanying the IDR notified President of the possible penalties and consequences for failing to comply within 90 days.

After receiving confirmation of receipt of the 90 day letter, President was contacted regarding the status of the returns. President specified that the information was given to the Organization's accountant, and that the accountant would send the requested information.

After 90 days, no correspondence was received from the Organization.

An attempt to contact President after the 90 days had expired was unsuccessful. There has been no response to the Agent's request for a return phone call to discuss the issues at hand.

Due to the lack of response from the Organization, substitutes for returns were prepared.

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12

LEGEND

ORG = Organization name XX = Date President = President

Law

IRC Section 501(a) states that an organization described in subsection (c) or (d) shall be exempt from taxation under this subtitle unless such exemption is denied under Section 502 concerning feeder organization or Section 503 concerning organizations engaged in prohibited transactions.

Organizations exempt from federal taxes as described in IRC Section 501(c)(3) include corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals; no part of the net earnings of which inures to the benefit of any private shareholder or individual; no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation; and which does not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states that in order to be exempt as an organization described in section 501(c)(3) of the Code, the organization must be one that is both organized and operated exclusively for one or more purposes specified in that section. If an organization fails to meet either the organizational or operational test, it is not exempt.

Treasury Regulation Section 1.501(c)(3)-1(c) specifies that with regard to the primary activities within the operational test, an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3).

Treasury Regulation Section 1.501(c)(3)-1(c)(1) provides that an organization will not be regarded as operated exclusively for exempt purposes if more than an insubstantial part of its activities is not in furtherance of exempt purposes.

Treasury Regulation Section 1.501(c)(3)-1(d)(1)(ii) states that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Revenue Ruling 72-369 states, in part, that in order for an organization to pass the operational test the organization's resources must be devoted to purposes that qualify as exclusively charitable.

Taxpayer's Position

Form 886-A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended
ORG		20XX12

LEGEND

ORG = Organization name XX = Date President = President

The Organization did not return any calls or send any correspondence to provide a position.

Government's Position

The IRS section 501(c)(3) tax exempt status of ORG should be revoked because it is not operated exclusively for tax exempt purposes pursuant to the requirements set forth in section 1.501(c)(3)-1(c)(1) of the regulations.

The Organization's lack of activities for three years also stand in contrast to section 1.501(c)(3)-1(c)(1) of the regulations in that the lack of operations is evidence that there is no furtherance of any exempt purpose.

In contrast to section 1.501(c)(3)-1(d)(ii) of the regulations which calls for an organization to be organized and operated for a public rather than a private benefit, the Organization has not operated or engaged in any charitable activities since the end of 20XX.

The Organization does not pass the operational test as specified in section 1.501(c)(3)-1(c) of the regulations because the lack of activities means they were not operated exclusively for one or more exempt purposes. To be considered as operating exclusively for exempt purposes, the Organization would have had to engage primarily in activities which accomplish one or more of such exempt purposes as specified in section 501(c)(3) of the Code.

As ORG has not operated exclusively for charitable purposes for an extended period, the tax exempt status of the Organization should be revoked.

Conclusion

ORG does not qualify for tax exempt status under IRC section 501(a) as described in section 501(c)(3) of the Code. The lack of any qualified activity indicates that this organization should not be allowed to continue as a tax exempt organization. Revocation of the tax exempt status of ORG is proposed.

A closing conference was attempted via telephone after the expiration of the 90 day limit. President was not available, and did not return any phone call.